

From: [Michael London](#)
To: [Petrosinelli, Joe](#); [Matt Amrit](#); [Grant Tanenbaum](#); [Kendall Huennekens](#)
Cc: [Ring, Daniel L.](#); [Joe Rice](#); [Scott Summy](#); [Olsen, Michael A.](#); [Brian Duffy](#); [David Dukes](#); [Montgomery, Liam](#); [Fred Thompson](#); [Layn Phillips](#); [Andra Greene](#); mseymour@phillipsadr.com
Subject: RE: AFFF MDL - request for conference with Court
Date: Tuesday, July 15, 2025 10:20:54 AM

CAUTION - EXTERNAL:

Dear Matt, Grant, and Kendall,

We write in response to the email sent to the Court yesterday evening by Mr. Petrosinelli. We have copied Judge Phillips and his team on this communication as they were not included in Mr. Petrosinelli's email, and we believe this matter involves a breach of the Mediation Agreement executed by all mediation parties and is violative of the privilege provided for under FRE 408.

First, Mr. Petrosinelli's letter requesting Court involvement relies upon data collected pursuant to a request by the defendants and the mediators through the mediation process to advance the mediation and as such constitutes a protected communication which is not to be used for any purpose other than mediation. The use of this data by Mr. Petrosinelli is troubling as it appears to advance both his and his client's position in this litigation, specifically focusing on unfiled case data that was requested to be gathered as part of this mediation process and its delivered to the mediators and Mr. Petrosinelli jointly constituted a protected communication which is not to be used for any purpose other than mediation.

As the Court may be aware, the plaintiffs' leadership obtained information about the unfiled cases at issue at the defendants' request by canvassing plaintiff law firms and asking that they voluntarily provide information about their unfiled cases for use in this process. Significantly, the underlying premise of this request was that this information was being collected and would be provided under the mediation process, privilege, and protection. Mr. Petrosinelli has either willfully or unwittingly violated this and is now seeking to improperly use this information (obtained only through the mediation process) to garner some litigation advantage given his reference to the bellwether process and case management.

Second, we are troubled that this communication and request has not gone through the mediators, nor was it discussed with any of the plaintiff counsel, save for a brief "heads up" call advising the email was being sent to the Court for judicial intervention and some unknown relief. This lack of notice by Mr. Petrosinelli is particularly concerning, as he has had these mediation materials and data for over two weeks since it was provided to the mediators and him contemporaneously on July 3, 2025, but only now on a Monday evening and five days after our last mediation session with Judge Phillips makes this request for judicial intervention under the guise of case management or for some advisory opinion, possibly to address the bellwether process, which he references.

Third, the plaintiffs hope that with Judge Phillips' guidance and intervention we will not be litigating issues addressed at mediation with Your Honor. This is the first such indiscretion in nearly three years with Judge Phillips' involvement. The Plaintiffs do not intend to raise issues and information shared by Mr. Petrosinelli presumably privately and during the course of mediation, but can do so if that is the course this mediation should take—which we hope it does not and which we suspect neither does Judge Phillips or his team, who we understand had no advance notice of this request by Mr. Petrosinelli either.

We thank the Court for its time and continued courtesies.

Respectfully submitted,

Michael London/Scott Summy/Joe Rice

From: Petrosinelli, Joe <JPetrosinelli@wc.com>

Sent: Monday, July 14, 2025 6:03 PM

To: Matt Amrit <Matt_Amrit@scd.uscourts.gov>; Grant_Tanenbaum@scd.uscourts.gov;
Kendall_Huennekens@scd.uscourts.gov

Cc: Ring, Daniel L. <DRing@jenner.com>; Joe Rice <jrice@motleyrice.com>; Michael London <mlondon@douglasandlondon.com>; Scott Summy <ssummy@baronbudd.com>; Olsen, Michael A. <MOlsen@mayerbrown.com>; Brian Duffy <bduffy@duffyandyoung.com>; David Dukes <david.dukes@nelsonmullins.com>; Montgomery, Liam <LMontgomery@wc.com>; Fred Thompson <fthompson@motleyrice.com>

Subject: AFFF MDL - request for conference with Court

Matt, Grant, and Kendall,

I write on behalf of the defense co-leads to request a conference with the Court to seek guidance regarding the personal injury cases. On May 13, 2025, the Court held a conference call with the parties during a mediation session for these cases, and defendants' request is a follow-up to that call. In that conference, the Court expressed concern about the apparent volume of unfiled cases. In recent weeks, the issue has accelerated, and the defense co-leads have been made aware that there are tens of thousands of unfiled claims involving the six medical conditions the PEC is pursuing (vastly more than when the Court spoke with the parties on May 13). The number of these unfiled claims now dwarfs the number of personal injury cases that are actually filed in the MDL, and it continues to grow, at a rapid pace. The defense co-leads believe that the massive number of unfiled claims raises significant issues regarding case management, scheduling, and the bellwether process relating to personal injury

cases. Therefore, we seek the Court's guidance on those issues. The parties' next mediation session with Judge Phillips is set for July 25, 2025, and the defense co-leads suggest a phone conference before that date, if possible, given the time pressures of the current schedule. We informed the plaintiffs' co-leads that we would be making this request, and we copy them here. We thank the Court for its consideration.

Joe

Joseph Petrosinelli

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